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| In re Patent Application of: | | |
| Rumi Sheryar Gonda | | |
| Application No.: 10/713,385 | | Confirmation No.: 1616 |
| Filed: November 13, 2003 | | Art Unit: 2616 |
| For: | METHOD FOR SUPPORTING SDH/SONET OAMP ON ETHERNET | Examiner: Kenan CEHIC |

DECLARATION PURSUANT TO 37 CFR §1.131

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Declaration is submitted pursuant to 37 C.F.R. §1.131 to present evidence that the concepts set forth in Application No. 10/713,385 and captured in claims 1-82 predate the Mohan reference (US 2005/0099952) having an earliest possible priority date of November 10, 2003, and the Lim reference (US 2004/0085905) having an earliest possible critical reference date under MPEP § 2136.03 of October 21, 2003, both of which have been cited by the Examiner in the office action dated June 11, 2008.

Pursuant to 37 C.F.R. §1.131, the undersigned hereby declares as follows:

(1) I have worked as an engineer in the field of telecommunications, network systems, computer workstations, kernel systems, mechanical CAD/CAM systems, and the like for approximately 22 years. During that time, I have worked in this capacity at Sycamore Networks, Inc., Ascend Communications, Inc., Cascade Communications, Inc., UB Networks, Inc., and Digital Equipment Corporation (DEC), Inc. I am the sole inventor of certain inventions patented described in presently pending Application No. 10/713,385.

(2) I have reviewed the presently pending claims of the above-identified application. I understand that the claims have been rejected under 35 USC 102 in reliance on the

Mohan reference (2005/00099952) and under 35 USC 103 in reliance in-part on the Mohan reference (2005/00099952), and that a subset of the claims have additionally been rejected under 35 USC 103 in reliance in-part on the Lim reference (US 2004/0085905). I believe that the concepts set forth in Application No. 10/713,385 and captured in claims 1-82 were conceived in this country before the Mohan reference (2005/00099952) earliest priority date of November 10, 2003 and before the Lim reference (US 2004/0085905) having an earliest possible critical reference date under MPEP § 2136.03 of October 21, 2003.

(3) At least as early as July 13, 2001, I had conceived of the concept of providing a system and method for supporting SDH/SONET OAMP on an Ethernet network. As such, I had conceived of the concept of a Media Access Control (MAC) hardware device for supporting MAC Operations, Administration, Maintenance, and Provisioning (OAMP) functionality, comprising: a MAC OAMP Control sublayer for processing OAMP frames and maintaining OAMP state; and a plurality of MAC sublayers for carrying out MAC operations (*see* claim 1), before November 10, 2003, the earliest priority date of the Mohan reference (2005/0099952), and before the Lim reference (US 2004/0085905) having an earliest possible critical reference date of October 21, 2003. Documentation in support this can be seen in Exhibit A, which is page # 15 from my lab notebook dated 13 July 2001, page # 22 from my lab notebook dated 13 July 2001, and page # 23 from my lab notebook dated 13 July 2001. At the time of these notes, I referenced the OAMP as the “Performance Monitoring and Fault Management (PM+FM)” patent. Later in my records I renamed the body of work as “OAMP”, a more conventional industry term, as I worked toward preparing and filing the patent application. Documentation evidencing the terminology name change can be seen in Exhibit B.

(4) At least as early as July 13, 2001, I had conceived of the concept of providing a system and method for supporting SDH/SONET OAMP on an Ethernet network. As such, I had conceived of the concept of a method of providing OAMP functionality on an Ethernet protocol network, wherein the MAC OAMP Control sublayer provides

architecture for OAMP functionality in the form of at least one of administration, configuration management, performance evaluation, technical support, and billing (*see* claim 81) before November 10, 2003, the earliest priority date of the Mohan reference (2005/0099952), and before the Lim reference (US 2004/0085905) having an earliest possible critical reference date of October 21, 2003. Documentation in support this can be seen in Exhibit A, which is page # 15 from my lab notebook dated 13 July 2001, page # 22 from my lab notebook dated 13 July 2001, and page # 23 from my lab notebook dated 13 July 2001.

(5) At least as early as July 13, 2001, I had conceived of the concept of providing a system and method for supporting SDH/SONET OAMP on an Ethernet network. As such, I had conceived of the concept of a method of providing OAMP functionality on an Ethernet protocol network, wherein the MAC OAMP Control sublayer supports OAMP functionality in the form of at least one of Alarms, Remote Defects, Automatic Protection Switching, Loopbacks, Performance Monitoring, Trace Signals, Sync Signals, Bit Error Rate Tests, Data Communication Channel, Orderwire, Service Level Agreements, and OAMP operations (*see* claim 82) before November 10, 2003, the earliest priority date of the Mohan reference (2005/0099952), and before the Lim reference (US 2004/0085905) having an earliest possible critical reference date of October 21, 2003. Documentation in support this can be seen in Exhibit A, which is page # 15 from my lab notebook dated 13 July 2001, page # 22 from my lab notebook dated 13 July 2001, and page # 23 from my lab notebook dated 13 July 2001.

(6) All of the above dates of conception occurred in the United States as of the date indicated. Accordingly, I believe conception of the invention as described in claims 1-29, 81, and 82 (the presently pending non-withdrawn claims) occurred prior to November 10, 2003, the earliest priority date of the Mohan reference (2005/0099952), and prior to October 21, 2003, the earliest possible critical reference date of the Lim reference (US 2004/0085905).

(7) Furthermore, at least as early as July 16, 2001, communication with a patent attorney regarding obtaining patent protection for the inventive concept had been initiated. Documentation evidencing the communication can be seen in Exhibit C. From July 13, 2001 to November 13, 2003, I diligently worked with my patent attorney toward preparation and filing of the present pending patent application.

(8) At least as early as September 29, 2003 I had completed a substantially complete draft version of the patent application with claims. Between September 29, 2003 and the date of execution of the application (November 11, 2003) I worked diligently with my patent attorney to review and edit the draft patent application in preparation for filing. On November 11, 2003 I executed the Declaration and Power of Attorney, and forwarded the same to my patent attorney for filing with the application on November 13, 2003.

(9) All of the above dates of conception occurred in the United States as of the date indicated. Accordingly, I believe conception of the invention as described in claims 1-29, 81, and 82 (the presently pending non-withdrawn claims) occurred prior to November 10, 2003, the earliest priority date of the Mohan reference (2005/0099952), and prior to October 21, 2003, the earliest possible critical reference date of the Lim reference (US 2004/0085905).

(10) Summary of Exhibits - Please note, dashed boxes have been added to the exhibits to highlight particularly relevant portions of the exhibits as they relate to this Declaration.

Exhibit A – This exhibit shows page # 9 of my bound lab notebook indicating a date of 13 July 2001 and a witnessed date of 21 July 2001, page # 15 from my lab notebook dated 13 July 2001 (illustrating the concept of an Ethernet switch with “SONET PM + FM” (OAMP) support, “SLA support” and “SLA Management” support for implementing OAMP for Ethernet protocol networks), page # 22 from my lab notebook dated 13 July 2001 (illustrating the section entitled “How to add SONET framing PM + FM + protection into Ethernet Framing”, which describes and illustrates SONET/SDH layers OAMP management and corresponding Ethernet layers in the figure to implement the OAMP for the present invention on Ethernet MAC hardware devices in

an Ethernet protocol network, demonstrating how to add SONET framing PM + FM + protection into Ethernet framing), page # 23 from my lab notebook dated 13 July 2001 (illustrating an Ethernet switch with "extended Ethernet frame supports (PM + FM)" (OAMP) "configurable (default on for inside clouds, for client ports off default)", which describes the concept of extending Ethernet MAC frames to support OAMP in an Ethernet protocol network of Ethernet MAC hardware devices), and page # 33 of my bound notebook indicating a date of 14 July 2001 (thereby evidencing that pages # 9 through # 33 were all created between 13 July 2001 and 14 July 2001).

Exhibit B – This exhibit shows a screenshot of the file manager on my personal computer with date stamps demonstrating the name change from PM + FM (MAC-PM) to OAMP (MAC-OAMP). The relevant portion has been enlarged and reproduced at the bottom of the page.

Exhibit C – This exhibit shows a portion of actual email correspondence at the beginning of my engagement with my patent attorneys in pursuit of the presently pending patent application.

(11) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this Application for Patent or any patent issuing thereon.



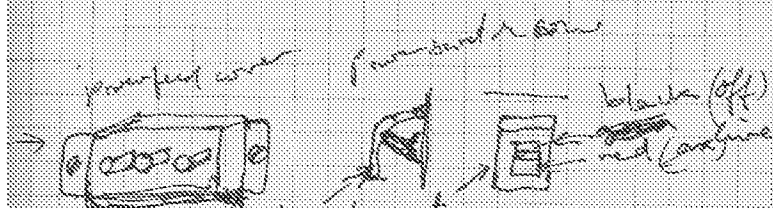
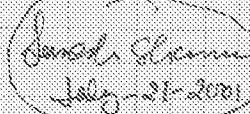
Rumi Sheryar Gonda
Inventor/Applicant

11-SEP-2008

Date

EXHIBIT A

12-34-200



MRD/PRD

~~Handwritten~~

0. Ethernet switching

1. TDM Emulation (circuit switching, grooming)

2. Linear protection (APS)

3. ^{and} PM + CM ~~same~~4. Mesh (linear + 1+1 path/tail protection
1+1 path restoration)

5. ring (later)

6. SLA support → ~~static~~ counters/statistics
→ policing + shapping

7. OSPF (≡ STP)

8. MPLS (≡ circuit switching + grooming)

~~APRIL~~ circuitingMPLS → maps Packet switching / flow
to circuit switching hardwareMPLS mathematically bidirectional,
so use it to map circuit switching
on Packet switching hardware.

9. SNMP + RMON

10. Command line + Web

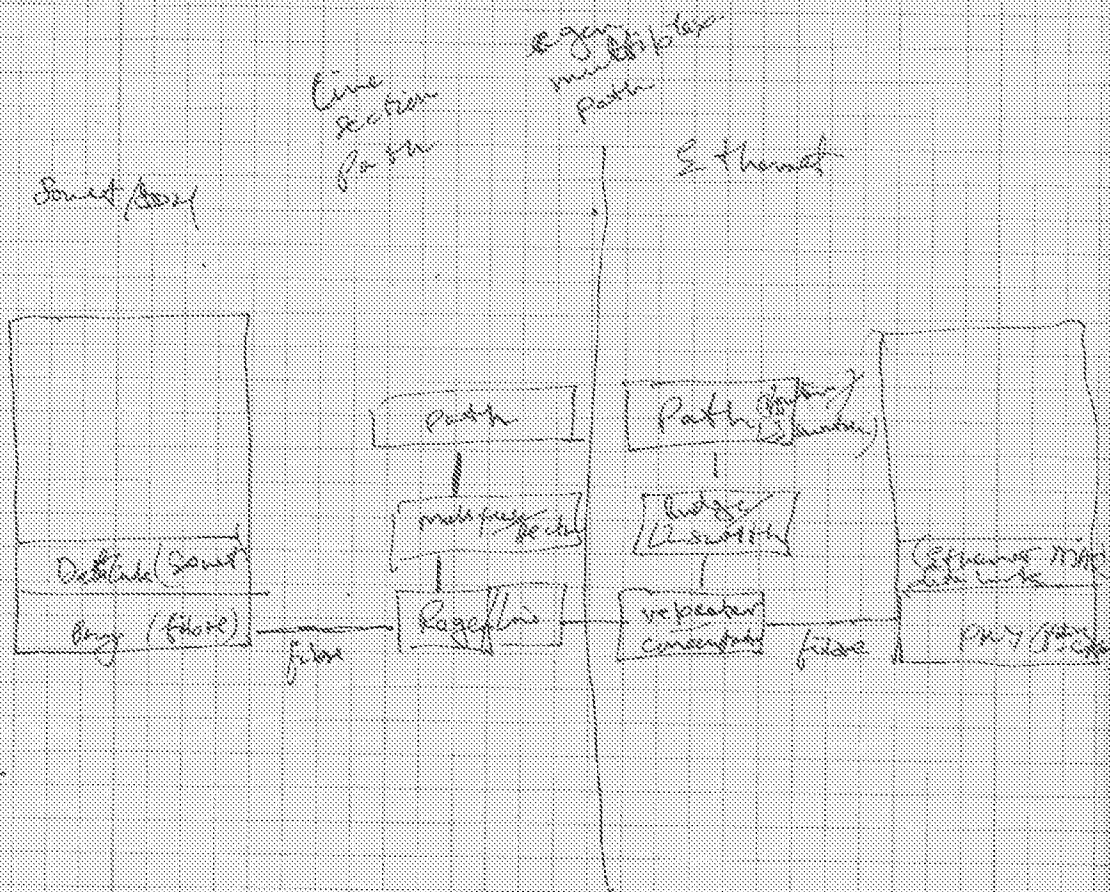
11. Self management

12. Static paths post & de provisioning

13. end to end post & de provisioning

14. VPN

How to add smart power
PM + PM into Ethernet
protection + Protection.



Switch settings.

- default cut through
assuming fibre and low
error rates in core setup
configurable to store & forward or
modified cut through
- 802.1Q / SP
- should use layer 3 switch chips
or pure layer 2 .?
- use VPN instead of VLAN
VPN stable + portable + easier to
manage + ^{no} performance hit at
layer 2 + not ^{as} useful in core?
should use chip which supports it
configurable
- Extended Ethernet frame
supports (PM+FM) configurable
(default on
individuals
change point to
default off)
- static SAT entries (age = 0)
never timeout
age
- STP configurable (default off for core)
(only LAN side)

14-June-2001
(contd.)~~OSPF allows link aggregation?~~

changed mind

M/C should be on full flume
S/GT.

Should have all in interfaces
 + expansion interfaces
 + slave interfaces
 + SF loads
 + upstream interfaces

- during configuration

- WAN/WAN^{over} mode/preference- per port configurable LMT/~~per~~
discovery

- or STP on (disable broadcast protocol)

-

EXHIBIT B

EXHIBIT C

From: Kevin J. Canning (kjc@lahive.com)

To: rsgonda@yahoo.com

Date: Monday, July 16, 2001 10:56:20 AM

Subject: Re: Hello --- information?

The starting point for all of the activities that you enumerated is for us to have either a telephone conference or a face to face meeting. We will then obtain the necessary information and file the appropriate papers.

Patent applications typically run in the range of \$12,000 - \$15,000 in attorneys fees to prepare and file the applications. Trademark applications are substantially less (typically in the range of \$750 - \$1000).

NDA's are billed on a straight time basis.

My billing rate is \$400/hour. We do, however, have associates at our firm with substantially lower billing rates.

Please let me know if you have any other questions.

Thanks,

Kevin Canning

Lahive & Cockfield LLP

(617) 994-0732

>>> Rumi Sheryar Gonda <rsgonda@yahoo.com> 07/16/01 09:50AM >>>

I was referred to you by Ke Le from Sycamore Networks.

I hope you don't mind me sending you this message.

I was wondering what is your process for filing for patents, registering for trademarks and non disclosure agreement contract. Could you also give some average or estimated costs and/or if you charge a hourly rate what it is.

Thanks, Rumi.